

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #16	CCRB Case #: 202005517	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/14/2020 5:06 PM, Friday, 08/07/2020 6:30 AM	Location of Incident: the northeast corner of West 47th Street and Broadway, § 87(2)(b)	Precinct: 18	18 Mo. SOL 2/7/2022	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 08/07/2020 12:47 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 08/07/2020 12:47 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Andrew Smith	1703	939485	WARRSEC
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SDS Michael Cafero	04681	914698	DBSI OP
2. POM Yefersson Salasmartinez	15419	957123	SRG 1
3. POM Antony Stevens	25283	935789	SRG 4
4. POF Desirae Lafurno	16959	957981	I.A.B.
5. POM Cameron Longley	01467	950771	MTN PCT
6. POM Arismendi Paulino	02601	951019	MTN PCT
7. SGT Daniel Burke	04380	937899	MTN PCT
8. POM Gerard Williams	11257	954423	MTN PCT
9. POM Leroy Hopkins	28710	950596	MTN PCT
10. POM Christophe Johnson	08698	952898	MTN PCT
11. POM Thomas Biggers	24729	964393	MTN PCT
12. POM Patrick Fico	8616	968411	MTN PCT
13. POM Matthew Czerepak	04909	928144	MTN PCT
14. POF Diana Schutz	05948	961261	SRG 1
15. SGT Aneudys Burgos	01857	948715	SRG 1
16. POM Marc Assael	12332	960179	SRG 1
17. INS Michael Kletzel	00000	897798	DB FED
18. LCD Michael Falk	00000	923809	067 DET
19. DT1 James Lusk	04127	901870	WARRSEC
20. AC Miguel Iglesias	00000	899369	CD OFF
21. POM Christophe Holihan	07717	954939	ESS 01
22. LT Montgomery Summa		923229	WARRSEC
23. DTS Robert Stosch	05909	918566	ESS 01

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
24. DT3 Thomas Cozart	01622	938283	WARRSEC
25. POF Eula Harris	09247	950563	WARRSEC
26. DT3 Lydia Figueroa	02603	945718	WARRSEC
27. SGT Daniel Comas	00707	943098	WARRSEC
28. SGT Richard Romance	03433	931085	T.A.R.U
29. DT3 Nicole Constantatos	02875	954536	T.A.R.U
30. DT3 John Gagliano	02604	940167	T.A.R.U
31. DT3 John Kamor	04363	930453	T.A.R.U
32. DT3 Adam Kotowski	03874	958774	T.A.R.U
33. AC Wilson Arambales	00000	893836	ESU
34. DT3 Darnell Cabbell	03890	934555	DET BUR
35. DC James Kehoe	00000	891678	PBMS

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A.DT3 Andrew Smith	Abuse: Detective Andrew Smith refused to show the arrest warrant to § 87(2)(b)	
B. Officers	Abuse: Officers refused to show the arrest warrant to § 87(2)(b)	
C. Officers	Abuse: Officers threatened to damage § 87(2)(b)'s property.	
D. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	
E. Officers	Abuse: Officers interfered with § 87(2)(b)'s use of a recording device.	

## Case Summary

On August 7, 2020, § 87(2)(b) filed the following complaint using the CCRB voicemail system.

At approximately 5:06 PM on June 14, 2020, there was a large protest in the vicinity of 2 Times Square in Manhattan where a civilian allegedly shouted into an officer's ear while using a megaphone, causing the officer pain and temporary hearing loss. The NYPD identified § 87(2)(b) as the perpetrator in this incident and created a probable cause I Card for his arrest. The NYPD did not obtain a warrant for § 87(2)(b)

At approximately 7:30 AM on August 7, 2020, Det. Andrew Smith and Det. Thomas Cozart of the Manhattan Warrant Squad went to § 87(2)(b)'s residence, located at § 87(2)(b), in Manhattan, and knocked on the door. § 87(2)(b) answered the door and Det. Smith spoke to him briefly before § 87(2)(b) closed the door. Det. Smith allegedly told § 87(2)(b) that the officers had a warrant for his arrest but refused to show it to § 87(2)(b) (**Allegation A: Abuse of Authority: Refusal to show arrest warrant:** § 87(2)(g)). Det. Smith then allegedly acknowledged having probable cause to arrest § 87(2)(b) but no warrant. § 87(2)(b) refused to open the door or surrender to the officers.

Numerous officers, including staff from the 18<sup>th</sup> Precinct, SRG 1 and SRG 4, Patrol Boro Manhattan North (PBMS), the Emergency Services Unit (ESU), the Hostage Negotiation Team (HNT), the Technical Assistance Response Unit (TARU), and the Detective Bureau (including the Chief of Detectives' Office) responded. Officers tied off § 87(2)(b)'s apartment door, surrounded the building, closed the incident block to traffic, and took up positions inside and atop nearby buildings.

Multiple officers tried to speak to § 87(2)(b) from outside his apartment and § 87(2)(b) began livestreaming the incident over Instagram Live. An officer falsely told § 87(2)(b) that there was a warrant out for his arrest and ignored his request to slide it under the door (**Allegation B: Abuse of Authority: Refusal to show arrest warrant:** § 87(2)(g)). An officer also threatened to break § 87(2)(b)'s door down if he did not surrender (**Allegation C: Abuse of Authority: Threat to damage/seize property:** § 87(2)(g)).

Officers allegedly used a battering ram or other tool to repeatedly strike § 87(2)(b)'s door, knocking items off his apartment walls (**Allegation D: Abuse of Authority: Property damaged:** § 87(2)(g)). Officers allegedly used telephonic equipment to remotely damage § 87(2)(b)'s cellphone, disrupting his recording and livestreaming of this incident and permanently disabling the device (within **Allegation D, Allegation E: Abuse of Authority: Interference with recording:** § 87(2)(g)).

The investigation obtained a short portion of § 87(2)(b)'s video livestream, and this video captures **Allegations B and C (Board Review 01)**. The investigation also obtained 12 BWC videos related to this incident from the NYPD. However, these videos came from officers who remained outside the incident building for the recordings' durations and contain no information material to the allegations. They have not been marked for Board review.

## Findings and Recommendations

### Allegation (A) Abuse of Authority: Detective Andrew Smith refused to show the arrest warrant to § 87(2)(b)

§ 87(2)(b) provided a detailed statement over MS Teams on October 15, 2020 (**Board Review 02**). Det. Smith was interviewed on April 16, 2021 (**Board Review 03**).

NYPD documents clearly track the leadup to this incident. As noted in DD5s prepared by PO Robert Townsend of the 13<sup>th</sup> Precinct Detective Squad (**Board Review 04**), PO Desirae La Furno of IAB reported an alleged assault while on duty at a protest. On June 14, 2020, a civilian reportedly used a megaphone to amplify their voice directly into PO La Furno's ear, causing temporary pain and swelling in her ear. The NYPD obtained surveillance video of the protest showing a blurry image of the suspect. According to the DD5s, PO Townsend worked with numerous officers and commands to try and identify the suspect but was unsuccessful. On June 25, 2020, PO Townsend recommended that the investigation be closed with a disposition of "C-4: Investigative Leads Exhausted" (page 31 of **Board Review 04**).

However, on July 13, 2020, PO La Furno emailed PO Townsend with an Instagram account and NYPD Domain Awareness System (DAS) report for § 87(2)(b) and identified him as the suspect (page 32 of **Board Review 04**). The available evidence does not explain how PO La Furno found § 87(2)(b)'s social media account. Regardless, the NYPD reopened their investigation into the alleged assault with § 87(2)(b) as the sole documented suspect. On July 16, 2020, PO Townsend activated a probable cause I Card for § 87(2)(b)'s arrest, listing what would prove to be his correct home address on it (page 40 of **Board Review 04**).

In his interview, Det. Smith broadly corroborated the narrative provided by police documents and explained that he received § 87(2)(b)'s I Card as part of his routine duties within the Manhattan Warrant Squad. Nobody attempted to obtain a warrant between Det. Smith receiving the I Card and trying to apprehend § 87(2)(b). Det. Smith explained to the CCRB that Warrants officers generally do not operate that way. Rather, they try to apprehend suspects based on the available I Card. § 87(2)(e), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Det. Smith visited § 87(2)(b)'s residence multiple times prior to the CCRB incident but did not encounter § 87(2)(b). However, on the morning of August 7, 2020, Det. Smith knocked on § 87(2)(b)'s door and § 87(2)(b) answered and identified himself by full name. Det. Smith told § 87(2)(b) who he was, the reason for the visit, and that there was probable cause to arrest him. Det. Smith did not issue § 87(2)(b) any orders but explained that § 87(2)(b) would be arrested based on the I Card. § 87(2)(b) asked for an arrest warrant. Det. Smith replied that there was no arrest warrant at the time but there was probable cause to arrest § 87(2)(b) for assault. Det. Smith did not tell § 87(2)(b) that there was a warrant for his arrest. § 87(2)(b) closed the door and asked that a warrant be slid under the door. Det. Smith told § 87(2)(b) that at this point there was no warrant, and that § 87(2)(b) might be confused because Det. Smith had said he was assigned to the "Warrant Squad." Det. Smith reiterated that the police had probable cause to arrest § 87(2)(b).

In his interview, § 87(2)(b) said that he awoke to knocking on his apartment door, went to the door, looked through the peephole, and then opened the door slightly while keeping the lock chain engaged. He saw Det. Smith holding a rolled-up piece of paper. Det. Smith asked § 87(2)(b) to identify himself but § 87(2)(b) did not. Det. Smith then asked if § 87(2)(b) was § 87(2)(b) looked at the piece of paper, and said he had a warrant. § 87(2)(b) immediately closed the door and told Det. Smith to slide the paper under the door. § 87(2)(b) and Det. Smith had no further dialogue before § 87(2)(b) closed the door and asked to see the purported warrant.

Det. Smith did not say anything at this point. Det. Smith knocked continuously until § 87(2)(b) returned to his door and asked again for the officer to slide the warrant under his door. Det. Smith then said that he did not have a warrant but rather had probable cause for § 87(2)(b)'s arrest. Up to this point in the incident, Det. Smith did not tell § 87(2)(b) that he was under arrest or would be arrested. Det. Smith did not specify the crime for which he had probable cause to arrest § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

**Allegation (B) Abuse of Authority: Officers refused to show the arrest warrant to**

§ 87(2)(b)

**Allegation (C) Abuse of Authority: Officers threatened to damage § 87(2)(b)'s property.**

**Allegation (D) Abuse of Authority: Officers damaged § 87(2)(b)'s property.**

**Allegation (E) Abuse of Authority: Officers interfered with § 87(2)(b)'s use of a recording device.**

**Known facts and general descriptions:**

The basic facts of this incident are undisputed. After § 87(2)(b) and Det. Smith spoke at the apartment threshold, Det. Smith notified his supervision within the Warrants Squad that he had seen § 87(2)(b) face-to-face, and that § 87(2)(b) was now refusing to leave his apartment and surrender to the police. This notification led to an escalating series of further notifications, with officers and police radio dispatchers requesting additional units from local patrol and Warrants commands, ESU (to take tactical control of the apartment door area), TARU (to assist ESU in surveilling the incident area), HNT (to try and communicate with § 87(2)(b) and SRG (to secure the incident block after a protesting crowd formed in apparent response to § 87(2)(b)'s livestream). The police remained on scene for several hours as officers worked with staff at the 18<sup>th</sup> Precinct Detective Squad to request a warrant via the Manhattan DA's office. Eventually, however, executive officers (see below) determined that the police should leave the scene without apprehending § 87(2)(b) or obtaining a warrant.

§ 87(2)(b)'s livestream video clip (**Board Review 01**) shows § 87(2)(b) inside his apartment, using his cellphone to speak to an unknown civilian. An apparently male voice is audible at lower volume, but the speaker is not visible and appears to be a police

officer standing outside § 87(2)(b)'s closed apartment door. Although § 87(2)(b) did not allege that another officer, besides Det. Smith, spoke to him regarding a warrant, at 1:10 in the video, the officer instructs § 87(2)(b) to come out of the apartment. § 87(2)(b) tells the officer to slide the warrant under his door, and the officer replies that there is a warrant for § 87(2)(b)'s arrest. At 1:50 the officer says, "We're giving you the opportunity to come out and talk to us rather than us breaking your door and forcing our way in, which we don't want to do."

In his interview, § 87(2)(b) alleged that he heard officers tell him to open the door and surrender, and that nothing would happen to him. They then began counting to three. After three seconds, the officers struck his door hard with something he assumed to be a battering ram. The impact was hard enough to knock photos off his apartment walls. Over the course of 10 to 15 minutes, officers repeated this process multiple times, asking for § 87(2)(b)'s surrender, counting down, and then ramming his door. After the incident, § 87(2)(b) discovered a round, six-inch-wide dent in his door. The sole video obtained by the investigation from within § 87(2)(b)'s apartment (**Board Review 01**) does not capture any audio or visual indications of officers counting down or striking a door with a ram or other tool.

Over much of the incident, § 87(2)(b) used his cellphone exclusively to text and call people about what was happening. He used an iPad connected to Wi-Fi to livestream the incident over Instagram Live. At one point, § 87(2)(b) could not continue phone contact with his attorney. Outgoing calls from his phone were answered by the same man, regardless of what number § 87(2)(b) dialed. This man did not identify himself as an officer or part of the NYPD, but § 87(2)(b) believed he was an officer. Within the same 20-minute period, § 87(2)(b)'s phone suddenly froze on his home screen. § 87(2)(b)'s phone never functioned at all after the incident. He had it for a day or two after the incident, had several people look at it, and then replaced it with a new, working phone. After his phone froze, § 87(2)(b) continued communicating with lawyers via Zoom over Wi-Fi on a desktop computer. The Wi-Fi connection became very inconsistent around the same time that his phone froze, which § 87(2)(b) had never previously experienced in the apartment. The Instagram Live livestream was affected by the inconsistent Wi-Fi.

#### **BWC:**

The CCRB obtained no BWC video that captured the allegations. All the potential subject officers belonged to specialized commands and/or had administrative assignments that meant they did not wear body cameras during this incident. All the interviewed officers confirmed that they did not wear body cameras during the incident or otherwise record videos.

#### **NYPD Documents Reviewed:**

The CCRB obtained significant NYPD documentation of this incident, including EVENT logs, DD5s, a TARU Job Tracker Sheet, and an ESU incident report. While these documents corroborate the general incident narrative and identify numerous involved officers and commands, they do not identify which officer or officers spoke directly to § 87(2)(b) during the incident. The CCRB also obtained documents related to the NYPD's investigation into § 87(2)(b) from the Social Media Analysis and Research Team (S.M.A.R.T.) (**Board Review 12**). While these documents show that the NYPD used social media, including Instagram, to corroborate § 87(2)(b)'s identity as a suspected

perpetrator, the S.M.A.R.T. did not provide any livestream video from the incident itself or other information to identify whose voice is heard in the livestream video.

### **Concurrent Investigations:**

§ 87(2)(b) filed this complaint directly with the CCRB. On April 5, 2022, the undersigned investigator spoke to a detective in the NYPD Legal Bureau and confirmed that the NYPD did not investigate this incident (see IA #169).

### **Ranking Officers:**

AC Miguel Iglesias of the Chief of Detectives Office was one of the two highest-ranking officers on scene. He was not present for the entire incident and did not directly supervise all the involved specialized units but played a meaningful role in the incident and was interviewed.

AC Wilson Arambales, the Commanding Officer of ESU, held the same rank as AC Iglesias but was reportedly only involved in supervising the ESU team for a limited time during this incident and was not interviewed.

Ins. Michael Kletzel of the Detective Bureau's Fugitive Enforcement Division was the Commanding Officer of the Warrant Squads during this incident. He was also on scene, played a meaningful role in the incident, and was interviewed.

### **Officers Interviewed:**

SDS Michael Cafero of the HNT was interviewed on December 21, 2020 (**Board Review 05**). Ins. Kletzel was interviewed on April 30, 2021 (**Board Review 06**). AC Iglesias was interviewed on June 10, 2021 (**Board Review 07**). PO Christopher Holihan of ESU was interviewed on August 16, 2021 (**Board Review 08**). Sgt. Richard Romance of TARU was interviewed on November 10, 2021 (**Board Review 09**).

All the interviewed officers acknowledged their presence at this incident and provided statements regarding their role and actions. None of the officers acknowledged making the statements heard in the livestream audio or similar ones. None of the officers acknowledged committing, ordering, witnessing, or having any knowledge of the other allegations.

PO Holihan was part of the ESU team that, according to all the interviewed officers, was responsible for controlling the apartment door for most of this incident, and in his interview, he denied that any officer struck § 87(2)(b)'s door with anything except their hands.

Sgt. Romance was the TARU supervisor on scene. In his interview, he said that while his unit was called to this incident to potentially support ESU in observing § 87(2)(b) and gathering tactical information, the TARU officers ended up playing a very minimal role. He denied that TARU staff or other officers used any equipment or methods to interfere with or damage § 87(2)(b)'s electronics. He was unaware of the NYPD having the capability to take such actions, and said that if the Department had such capabilities, that they would fall within the TARU Telephone Unit's purview. No officers from the Telephone Unit responded to this incident or collaborated with Sgt. Romance's staff via phone, radio, or other communications technology.

In his interview, Det. Smith stated that once § 87(2)(b) refused to open his apartment door and surrender to the police, he notified Lt. Montgomery Summa of the Manhattan Warrant Squad (retired from NYPD employment and not interviewed) of the

situation. Det. Smith decided to call Lt. Summa to get guidance, but this call was not a procedural requirement. Det. Smith asked Lt. Summa what to do. Lt. Summa instructed Det. Smith to cover the building's exits, notify the 18th Precinct Detective squad, and have them request an arrest warrant. Lt. Summa said that he would call the Detective Squad's commander and told Det. Smith to stand by for further directions. Det. Smith called the 18th Pct. Detective Squad and informed them of the situation. A Detective Squad staff member said they would contact the Manhattan DA's office about obtaining a warrant.

In his interview, Ins. Kletzel said that he was in his office when he received a phone call from Lt. Summa. Lt. Summa told Ins. Kletzel that Warrants case officers had located § 87(2)(b) inside his apartment. The case officers had a probable cause I Card for § 87(2)(b) who was refusing to leave his apartment and surrender. § 87(2)(b) was livestreaming the incident via social media and encouraging people to come to the scene.

In his interview, Ins. Kletzel explained that, by procedure, Warrant Squad officers must notify their duty captain when they encounter a barricaded civilian. A barricaded civilian is anyone behind a door or other object who refuses to come outside and surrender. "Barricaded" does not necessarily mean that the person has blocked the door, built obstacles, or made threats. During this incident, there was no duty captain working within Manhattan Warrants and the deputy inspector who would normally be the next step in the chain of command was on vacation. As a result, Lt. Summa's call went to Ins. Kletzel, who decided to go to the incident himself. Ins. Kletzel decided to go to the incident because it was unusual and unsafe for a wanted civilian to livestream their apprehension and encourage other civilians to come to the scene. Furthermore, there were no subordinate supervisors (i.e., the duty captain or deputy inspector) who could respond. There were no other factors that led Ins. Kletzel to respond.

During the drive to the incident, Ins. Kletzel called the Chief of Detectives office's main phone number. He did this because the incident was livestreaming, and he wanted the Chief of Detectives team to be aware of it. The call was only for informational purposes and was not a procedural requirement. He did not recall who he spoke to at the Chief of Detectives office, but that person said that they were going to send TARU and the Hostage Negotiation Team (HNT). Ins. Kletzel believed that the Chief of Detectives office notified HNT and TARU for safety and no further reasons. From a safety standpoint, TARU can videotape an incident while HNT is there to talk the civilian out and deescalate the situation.

Upon arriving at the incident, Ins. Kletzel met a Warrants sergeant who had joined the Warrants command very recently and who Ins. Kletzel did not know (identified by the CCRB as Sgt. Daniel Comas). He then met Lt. Summa, and Sgt. Comas and Lt. Summa told him that § 87(2)(b) was wanted for assault against a police officer involving a bullhorn at a protest. Ins. Kletzel then met with Det. Smith.

In his interview, Ins. Kletzel explained that because this incident involved a barricaded perpetrator, there was a procedurally mandated response from ESU, the local Patrol Bureau Duty Chief (PBMS Duty Chief James Kehoe, in this case), and the executive officer of the Detective Bureau (AC Iglesias, in this case).

During his time on scene, Ins. Kletzel repeatedly walked in and out of the incident building talking to people, both in person and on the phone. He spoke on the phone to Midtown South Detective Squad staff about trying to get an arrest warrant for § 87(2)(b). He spoke in person to a civilian woman who said she was an advocate for § 87(2)(b). Ins. Kletzel met her near the front of the building and asked her to identify herself and confirm



whether she lived in the building. Ins. Kletzel and the woman spoke back and forth about whether she could enter, and they eventually spoke outside. Ins. Kletzel did not recall further details of their conversation. Ins. Kletzel also spoke on the phone to multiple attorneys representing § 87(2)(b) including Dorothy Weldon, Chris Smith, and Tiffany Wang. Ins. Kletzel told all three lawyers that the police had a Probable Cause I Card for § 87(2)(b)'s arrest. § 87(2)(b) Smith told Ins. Kletzel that § 87(2)(b) was afraid to surrender because of all the ESU officers outside his door. Ins. Kletzel told § 87(2)(b) that he would go to the door himself and § 87(2)(b) could surrender to him directly. Ins. Kletzel would then transport § 87(2)(b) to a stationhouse in his unmarked NYPD vehicle. § 87(2)(b) apparently got § 87(2)(b)'s approval for this, and Ins. Kletzel (while remaining on the phone call) approached § 87(2)(b)'s apartment door. Two ESU officers flanked Ins. Kletzel, with one of them holding the door rope and the other holding a ballistic shield. However, § 87(2)(b) never opened the door and Ins. Kletzel eventually gave up waiting for him. Separate of talking to § 87(2)(b) over the phone, Ins. Kletzel had no contact with § 87(2)(b). He did not speak to him through his doors or windows and did not reach him over the phone or other electronic device.

In his interview, AC Iglesias said that he was working in his office within 1 Police Plaza in Manhattan when an unrecalled NYPD employee of the Detective Bureau Wheel (DBW) notified him of an ongoing barricaded perpetrator incident at § 87(2)(b) in Manhattan. The DBW is an office, near AC Iglesias' own, where calls come in from the field. The DBW can then notify senior NYPD staff about the calls.

Normally, the Detective Bureau's Investigative Chief (AC Michael Baldassano) would have responded to this incident. As the Executive Officer of the Detective Bureau, AC Iglesias usually oversees the Detective Bureau's operations and administration, with a focus on personnel shifts and transfers. The Investigative Chief handles most investigative work. However, AC Baldassano was not working that morning, so AC Iglesias went to this incident instead. AC Iglesias responded to this incident because a barricaded perpetrator in Midtown Manhattan is very rare, and the Investigative Chief was not available. AC Iglesias did not take any actions or notify any other NYPD staff about this incident before leaving to go to the scene. He was not procedurally obligated to make any notifications.

Upon arriving at the incident, AC Iglesias spoke to an unrecalled Warrant Squad supervisor who told AC Iglesias that § 87(2)(b) was wanted for assault on a police officer and that the police did not have an arrest warrant for him. AC Iglesias then spoke to Inspector Kletzel about § 87(2)(b) being barricaded and trying to get an arrest warrant for him. AC Iglesias decided to remain on scene until the police got a warrant. He did not learn further details about the incident at this point.

While on scene, AC Iglesias focused on trying to get an arrest warrant for § 87(2)(b). His role was to ensure that whatever resources officers needed to get the warrant were utilized. § 87(2)(g), § 87(2)(e)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) AC Iglesias never communicated with § 87(2)(b) or his lawyers. He believed that HNT spoke to § 87(2)(b)'s lawyers but did not know anything about these conversations.

Towards the end of the incident, AC Iglesias called Chief of Detectives Rodney Harrison. Chief Harrison was in a meeting initially, but he called AC Iglesias back after an unrecalled delay. Chief Harrison asking what was going on, and AC Iglesias described the situation to him. Chief Harrison asked if the officers had a warrant, AC Iglesias said no, and Chief Harrison told AC Iglesias to “shut it down.” Chief Harrison did not explain why he wanted the operation shut down. AC Iglesias informed Patrol Chief Kehoe and ESU Chief Arambales to leave and the officers left. AC Iglesias estimated that he was on scene for between one and two hours.

In his interview, SDS Cafero said he was in his office when he received a call from the Chief of Detectives Wheel alerting him to this incident. He drove, alone, to the incident address. When he arrived at the incident, SDS Cafero first spoke to Inspector Kletzel, who told him that the police had a probable cause I-Card for § 87(2)(b) his pedigree info, and that he was not coming out of his apartment. As far as SDS Cafero knew, the police did not have a warrant during this incident and were talking to the DA’s office about acquiring one.

Over the course of the incident, SDS Cafero’s goal was to safely negotiate § 87(2)(b)’s peaceful surrender. In a barricaded perpetrator incident, one officer assumes the role of lead negotiator. The lead negotiator speaks to the perpetrator, while other officers act as “intel gatherers” to get the lead negotiator useful information. Higher ranking officers can always overrule subordinate ones, but in general the lead negotiator and the intel gatherers run the police response to a barricaded perpetrator incident. During this incident, SDS Cafero considered himself to be an intel gatherer and Inspector Kletzel to be the lead negotiator. SDS Cafero considered himself to be assisting other officers rather than supervising them during this incident.

SDS Cafero understood Inspector Kletzel to be leading the effort to speak to § 87(2)(b) through his apartment door. However, AC Iglesias was on scene and outranked Inspector Kletzel. Over the course of the incident, SDS Cafero and AC Iglesias spoke back and forth about tactics and procedures, whether they had contact with § 87(2)(b) and what § 87(2)(b)’s lawyer was saying (see below). SDS Cafero did not recall further details of his conversation with Chief Iglesias.

SDS Cafero entered the building lobby, walked up the stairs, and stood in the hallway leading to § 87(2)(b)’s apartment. However, he did not walk down the hall or get close to § 87(2)(b)’s door because there were a lot of other officers in the hallway already. There were several ESU officers in the hall. Inspector Kletzel and other Warrant Section officers were at the door trying to speak to § 87(2)(b). SDS Cafero did not know who the Warrant Section officers were because there were so many people in the hallway it was hard to see. There were also patrol units in the hallway from Midtown North, including both POs and a high-ranking, white-shirted supervisor (SDS Cafero was unsure if they were a captain, inspector, chief, or some other executive rank). SDS Cafero never approached § 87(2)(b)’s door closely or tried to speak to him through it.

SDS Cafero spoke to a Sgt. Romance in the incident building’s backyard. SDS Cafero asked what tools and capabilities TARU had, who they had on scene, and whether they were ready to work with ESU. Sgt. Romance said he had detectives and lots of equipment, including a camera that could help view § 87(2)(b)’s apartment door. SDS Cafero was not aware of TARU having any telecom equipment during this incident (i.e., phone jamming or intercepting tools). SDS Cafero had never seen such equipment used during a barricaded perpetrator incident. SDS Cafero did not ever request or suggest that

the police interfere with § 87(2)(b)'s cellphone, and no one ever told him that the police were going to shut § 87(2)(b)'s phone down or intercept his calls.

Soon after arriving on scene, SDS Cafero spoke to multiple male ESU officers of unknown rank(s). Someone already on scene (possibly Inspector Kletzel and maybe someone else) told SDS Cafero that § 87(2)(b) was livestreaming the incident on Instagram Live. SDS Cafero, an unknown ESU officer, and AC Iglesias watched the livestream on SDS Cafero's NYPD cellphone in the same manner that a civilian user would (they did not use special equipment or software to view the stream). The livestream showed § 87(2)(b)'s location within the apartment and the apartment layout.

SDS Cafero asked if Inspector Kletzel wanted him to speak to § 87(2)(b) at the apartment door. Inspector Kletzel did not want SDS Cafero to speak to § 87(2)(b) at the door, as Inspector Kletzel had been able to reach one of § 87(2)(b)'s lawyers and felt that they were the best person to negotiate with. SDS Cafero did not know the specifics of Inspector Kletzel's dialogue with this lawyer. However, Inspector Kletzel gave SDS Cafero § 87(2)(b)'s phone number without saying how the police had obtained it. SDS Cafero then used his NYPD cellphone to text § 87(2)(b) twice, once shortly after arriving on scene and again an unknown amount of time later. The first text was a generic text that SDS Cafero always uses during this type of incident. It included his name, rank, assignment to the HNT, and a statement to the effect of "I'd like to talk to you about what is going on today." SDS Cafero did not specify the content of his second text. SDS Cafero also tried to call § 87(2)(b). This call went to voicemail and SDS Cafero left a voicemail, but never spoke to § 87(2)(b) over the phone. Inspector Kletzel also gave SDS Cafero a number for one of § 87(2)(b)'s lawyers. SDS Cafero spoke to this lawyer multiple times but did not learn anything that helped resolve the situation. SDS Cafero described these calls as "back and forth," with the lawyer repeatedly calling and hanging up to speak to § 87(2)(b) instead of him.

SDS Cafero never discussed forcing § 87(2)(b)'s apartment door open with anyone, and never heard anyone talk about doing this. He was not aware of officers using a ram or other device to strike or damage § 87(2)(b)'s door. The only procedural reason to force the door open would have been to respond to a threat to someone's life and SDS Cafero did not observe such a threat during this incident.

After several hours, AC Iglesias instructed SDS Cafero and other officers to leave the scene. At that point, SDS Cafero was on the phone with his personal supervisor, the commanding officer of the patrol boro, discussing the status of the incident. AC Iglesias did not explain why the officers needed to leave, and SDS Cafero had no idea why this moment was the end of the incident.

### **Allegation Recitation and Disposition**

It is undisputed that many officers from a wide array of commands and ranks responded to this incident. The investigation obtained largely consistent accounts from officers across commands and ranks regarding how the incident began, escalated, and ended. These accounts were, in turn, largely consistent with § 87(2)(b)'s narrative and the available documentary evidence (video and paperwork). However, because § 87(2)(b) experienced the hours-long incident from inside his locked apartment, no other civilians were with him, the interviewed officers each had incomplete perspectives and recollections of the incident, and none of the involved officers wore BWCs, the investigation cannot determine with any moment-to-moment specificity which officer or officers made the

§ 87(2)(b), § 87(2)(g)

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 10**).
- Det. Smith has been a subject in five previous CCRB complaints and seven previous allegations, none of which were substantiated. § 87(2)(g)

- This complaint was unsuitable for mediation.
- A request for any Notice of Claim filed regarding this incident has been submitted to the New York City Comptroller's Officer, and the results will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (**Board Review 11**).

Investigator:      \_\_\_\_\_  
                                Signature                                 Print Title & Name                                 Date  
  
Squad Leader: \_\_\_\_\_  
                                Signature                                 Print Title & Name                                 Date  
  
Reviewer:                                 \_\_\_\_\_  
    Signature                                 Print Title & Name                                 Date